



Opinion 421

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Opinion Title: 10/01/2010 UNPUBLISHED In re Bowen , 98-28722, Judge Thurman.

Body: Creditor in Chapter 7 case filed a motion for relief from this Court's sanctions order pursuant to Fed. R. Bankr. P. 9024 and Fed. R. Civ. P. 60(b) or, alternatively, to alter or amend the order or grant a new hearing pursuant to Fed. R. Bankr. P. 9023 and Fed. R. Civ. P. 59. Although creditor's motion was timely filed under Rule 59, the facts germane to the motion, the arguments of counsel and the testimony at the hearing on the motion first required analysis under Rule 60. Creditor argued that its paralegal mishandled debtors' motion for sanctions and, as a result, the matter was not given the attention it required. Balancing the circumstances surrounding creditor's failure to respond to debtors' sanctions motion, the Court concluded that this mishandling constituted excusable neglect for the purpose of Rule 60(b). The Court also concluded that creditor's timely filed Rule 59 motion raised concerns requiring a new hearing on debtors' motion.

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Judge: [Judge William T. Thurman](#) [2]

Date: Friday, October 1, 2010

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